

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

YVONNE F. BROWN,)	
)	
Plaintiff,)	Civil Action No. 20-1320
)	District Judge David S. Cercone
v.)	Magistrate Judge Maureen P. Kelly
)	
MAYOR WILLIAM PEDUTO, R. DANIEL)	Re: ECF No. 4
LAVELLE, JAKE WHEATLEY and)	
DEWITT WALTON,)	
Defendants.		

REPORT AND RECOMMENDATION

I. RECOMMENDATION

It is respectfully recommended that the Complaint be dismissed before service for failure to state a claim upon which relief can be granted.

II. REPORT

Plaintiff Yvonne F. Brown (“Plaintiff”) initiated this action on September 4, 2020 by filing a Motion for Leave to Proceed *in forma pauperis*, which the Court granted on October 16, 2020. ECF Nos. 1 and 2.

In her three-page Complaint, Plaintiff asserts claims against various elected officials. ECF No. 4. Her claims arise out of the lack of a direct bus route from her residence in the K. Leroy Irvis Towers to Mercy Hospital, which she alleges is the result of age and/or race discrimination. Id. at 2-3. She requests that the “Hill Loop Bus” be restored. Id. at 3.

For complaints filed *in forma pauperis* (“IFP”), Congress has given the courts statutory authority to dismiss *sua sponte*. See 28 U.S.C. § 1915(e)(2). Pursuant to 28 U.S.C. § 1915(e)(2)(B), a complaint filed IFP shall be dismissed if it is (1) frivolous or malicious; (2) fails

to state a claim upon which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief.

Upon review, Plaintiff fails to state a claim upon which relief can be granted. There is no averment or indication that Defendants, various elected officials, have any control or authority over the bus route that Plaintiff seeks to have restored. Furthermore, Plaintiff has not named the Port Authority of Allegheny County as a defendant. For these reasons, the Court recommends that Plaintiff's Complaint be dismissed without prejudice prior to service pursuant to 28 U.S.C. § 1915.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Rule 72.D.2, the parties are permitted to file written objections in accordance with the schedule established in the docket entry reflecting the filing of this Report and Recommendation. Objections are to be submitted to the Clerk of Court, United States District Court, 700 Grant Street, Room 3110, Pittsburgh, PA 15219. Failure to timely file objections will waive the right to appeal. Brightwell v. Lehman, 637 F.3d 187, 193 n. 7 (3d Cir. 2011). Any party opposing objections may file their response to the objections within fourteen (14) days thereafter in accordance with Local Civil Rule 72.D.2.

Dated: October 30, 2020

Respectfully submitted,

/s/ Maureen P. Kelly
MAUREEN P. KELLY
UNITED STATES MAGISTRATE JUDGE

cc: The Honorable David S. Cercone,
United States District Judge

Yvonne F. Brown
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